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December 19, 2006

ELECTRONICALLY FILED

United States District Court
Attn: Marc Duffy, Clerk
to Magistrate Judge Marianne B. Bowler
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 2300
Boston, MA 02210

Re: Thomas M. Kelley v. Town of Plymouth, et al
Civil Action No. 05-10596-NMG
Proposed Draft of Protected Order to Impound Transcript of Future Deposition of
Thomas M. Kelley concerning Retirement Board Records.

Dear Mr. Duffy:

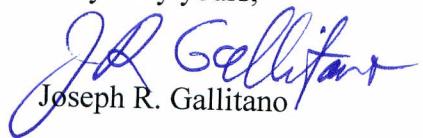
As you recall in open court on December 4, 2006, at the hearing on Motions for a Protective Order and Motion to Compel filed by the respective parties in the above-entitled action, I requested a protective order regarding the release of any transcript from the testimony at a deposition of Thomas Kelley regarding executive session minutes and other records from the Plymouth Retirement Board.

I have been waiting for a date to be set for said deposition in order to provide that date within the protective order, but we still have not been able to agree as to a date. Therefore, I have identified the deposition as best I can in the proposed draft for a protective order that I enclose herewith for your review and comment. If this draft is acceptable, please advise. If there are changes required I will be glad to redraft it per your comments or requests. In open Court, Judge Bowler said that if I drafted the proposed order, she would sign it concerning impounding the deposition and making it only available to the parties to the suit, and not available to any member of the public or the press.

Marc Duffy, Clerk
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Please advise at your earliest convenience.

Very truly yours,


Joseph R. Gallitano

JRG/pjm

Enclosures

cc: Jeremy I. Silverfine, Esq.
 Richard D. Armstrong, Jr., Esq.
 Thomas Kelley

DRAFT

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THOMAS M. KELLEY,
Plaintiff,

v. Civil Action No. 05-10596-NMG

TOWN OF PLYMOUTH, et al
Defendants.

PROTECTIVE ORDER ENTERED DECEMBER 4, 2006
IN OPEN COURT BY JUDGE MAGISTRATE MARIANNE B. BOWLER

The testimony of the deposition of the Plaintiff is limited per order of the court on December 4, 2006, to two hours and only pertaining to the records produced by the Plymouth Retirement Board under an Affidavit of the Keeper of the Records, Debra J. Sullivan dated November 16, 2006, and consisting of the following:

1. Affidavit of Debra J. Sullivan;
2. Correspondence dated November 1, 2006, from Debra J. Sullivan, Director to Thomas M. Kelley;
3. Notice of Taking Deposition;
4. Correspondence dated November 1, 2006, from Michael Sacco, Esq. to Jeremy Silverfine, Esq.;
5. Deposition Subpoena to Plymouth Retirement Board with Schedule "A", dated October 31, 2006;
6. Plymouth Retirement Board Executive Session Minutes dated June 21, 2004, stamped confidential;

7. Correspondence dated August 11, 2004, from Joseph R. Connarton, Executive Director of PERAC to Getta McGrath, Senior Investigator of the State Ethics Commission;
8. Memo to Debra Sullivan, Director, Plymouth Contributory Retirement Board dated June 18, 2004, from Dale M. Webber, Chairman, Plymouth Insurance Advisory Committee;
9. Memo to Michael E. Botieri, Captain of Police, dated June 7, 2004, from Dale M. Webber, Chairman, Plymouth Insurance Advisory Committee;
10. Correspondence dated May 26, 2004, from Captain Botieri to the Plymouth Retirement Board;
11. Memo from Captain Botieri dated June 1, 2004 to Debra Sullivan, Director;
12. Correspondence dated June 14, 2004 from Michael Sacco, Esq. to Joseph E. Connarton, PERAC; and
13. Correspondence dated June 14, 2004 from Robert F. Hicks, To Whom It May Concern.

The transcript from said deposition is impounded and only available to the parties for purposes of the litigation process including dispositive motions and trial preparation. The transcript nor any of the records produced shall not be released to the press or any news media organization nor to any one not a named party to the suit action herein. Further the parties, their counsel and any one attending the aforesaid deposition of Mr. Kelley, regarding said retirement board minutes and records, shall not comment on or relate any portion of said deposition testimony to any one not a party, counsel to the within action or member of this Court presiding over said action.

So ordered:

Magistrate Judge Marianne B. Bowler

Dated: December ___, 2006